



BILLING CODE: 8120-08-P

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

RIN 3316-AA23

**“Promoting the Rule of Law Through Improved Agency Guidance” Regulations;
Rescission**

AGENCY: Tennessee Valley Authority.

ACTION: Final rule; rescission of regulations.

SUMMARY: In accordance with the Executive order entitled, “Promoting the Rule of Law Through Improved Agency Guidance,” the Tennessee Valley Authority (TVA) is rescinding associated regulations.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Robin M. Daugherty, 423-751-3207, Email: rmdaugherty@tva.gov, Mail address: Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6 Knoxville, TN 37902.

SUPPLEMENTARY INFORMATION: TVA rescinds 18 CFR 1301.70 through 1301.80 (part 1301, subpart F), which implemented the requirements of Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents.” 84 FR 55235 (October 9, 2019) (EO 13891). TVA rescinds this regulation in accordance with EO 13992, “Revocation of Certain Executive Orders Concerning Federal Regulation.” 86 FR 7049 (January 25, 2021) (EO 13992). EO 13992 revoked certain executive orders, including EO 13891. EO 13992 additionally directed heads of agencies

to “promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof,” that were issued to implement EO 13891. TVA issued regulations to implement EO 13891 on September 24, 2020, at subpart F in part 1301 of title 18 of the Code of Federal Regulations (*Promoting the Rule of Law Through Improved Agency Guidance Documents*, 85 FR 60063-60068 (Sept. 24, 2020) (*codified at 18 CFR part 1301, subpart F*). This rescission complies with the purpose and intent of EO 13992.

Legal Authority

This rescission is promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831-831ee, and the Administrative Procedures Act, 5 U.S.C. 551-559.

Background

TVA is a multi-purpose corporate agency of the United States that provides electricity for business customers and local power companies serving 10 million people in parts of seven southeastern states. TVA provides flood control, navigation and land management for the Tennessee River system and assists local power companies and state and local governments with economic development and job creation.

Statutory and Executive Orders Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review - This action is exempt from review by the

Office of Management and Budget (OMB) because it is a rule of agency procedure and practice and is limited to agency management.

B. *Paperwork Reduction Act (PRA)*- This action does not contain any information collection activities and therefore does not impose an information collection burden under the PRA.

C. *Regulatory Flexibility Act (RFA)* - This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule pertains to agency management or personnel, which the APA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2).

D. *Unfunded Mandates Reform Act (UMRA)* - This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. *Executive Order 13132: Federalism* - This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments* - This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. *Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks* - TVA interprets EO 13045 as applying only to those regulatory actions that

concern environmental health or safety risks that TVA has reason to believe may disproportionately affect children. Per the definition of “covered regulatory action” in EO 13891, and because this action does not concern an environmental health risk or safety risk, it is not subject to EO 13045.

H. *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use* - This action is not subject to EO 13211 because it is not a significant regulatory action under EO 12866.

I. *National Technology Transfer and Advancement Act (NTTAA)* - This rulemaking does not involve technical standards.

J. *Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* - TVA believes that this action is not subject to EO 12898 because it does not establish an environmental health or safety standard. This regulatory action is a procedural rule and does not have any impact on human health or the environment.

K. *Congressional Review Act* - This rule is exempt from the CRA because it is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties.

L. *Executive Order 13992: Revocation of Certain Executive Orders Concerning Federal Regulation* – TVA believes that EO 13992 squarely applies in this context, as a clear and

direct requirement to rescind TVA's applicable regulations promulgated in accordance with EO 13891.

Signing Authority

This document of the Tennessee Valley Authority was signed on _____, by David B. Fountain, Executive Vice President and General Counsel, pursuant to delegated authority from the Chief Executive Officer.

Signed in Knoxville, TN, on May 5, 2021.

David B. Fountain
Executive Vice President and General Counsel
Tennessee Valley Authority

_____For reasons stated in the preamble, the TVA amends 18 CFR part 1301 as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301 continues to read as follows:

_____ Authority: 5 U.S.C. 552 and 552a; 16 U.S.C. 831-831dd.

Subpart F [Removed]

- _____2. Subpart F, consisting of §§ 1301.70 through 1301.80, is removed.

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